



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,169	05/10/2007	Xavier Couillens	1022702-000323	5100
21839	7590	05/12/2009	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			KOLLIAS, ALEXANDER C	
			ART UNIT	PAPER NUMBER
			1796	
			NOTIFICATION DATE	DELIVERY MODE
			05/12/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com



**DETAILED ACTION**

1. All outstanding claims objections and 35 USC 112, 2nd paragraph rejections are withdrawn in light of applicant's amendment filed on 1/29/2009.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.
3. No new grounds of rejection are set forth below. Thus, the following action is properly made final.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 15, 20-26, and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlosser et al (US 6,255,371) in view of Flippo et al (US 2001/0008913).

The rejection is adequately set forth in paragraph 5 of the Office Action mailed on 10/29/2008 and is incorporated here by reference.

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlosser et al (US 6,255,371) in view of Flippo et al (US 2001/0008913) as applied to claims 15, 20-26, and 28-32 above and in view of Hanabusa et al (US 6,433,045).

Art Unit: 1796

The rejection is adequately set forth in paragraph 6 of the Office Action mailed on 10/29/2008 and is incorporated here by reference.

***Response to Arguments***

7. Applicant's arguments filed 1/29/2008 have been fully considered but they are not persuasive.

8. Applicant argues that the amounts of melam disclosed by Schlosser cannot be combined with the flame retardant composition disclosed by Schlosser. However, it is significant to note that Schlosser already teaches a mixture of the compounds F1, F2, and F3. the only difference being that Schlosser does not disclose that amount of F3. It would have been obvious to one of ordinary skill in the art to look to Flippo which is drawn to a flame retardant glass reinforced polyamide composition, in order to determine that amount of F3 to be utilized in the flame retardant composition of Schlosser. Applicant argues that the flame retardant of Flippo would not be utilized in compositions comprising "complication melamine compounds". However, Flippo is not used to teach Fe into Schlosser, given that Schlosser already teaches compounds encompassed by F3, rather Flippo is used to teach amounts of F3. However, note that while Flippo does not disclose all the features of the present claimed invention, the reference is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely the amount of melamine condensation derivative,

Art Unit: 1796

and in combination with the primary reference, discloses the presently claimed invention. If the secondary reference contained all the features of the present claimed invention, it would be identical to the present claimed invention, and there would be no need for secondary references.

9. Applicant's argument regarding unexpected results as to fire-retardant composition is not found to convincing for the following reasons. In Table 1 of the Specification Composition A is the comparative example while **Embodiments 1-4** are the inventive examples. Although Applicant argues unexpected results regarding that fact that Composition A passed the GWFT test at 960 degrees C but failed GWFT test at 775 degrees, while Inventive Examples 1-4 passed both GWFT tests, the following differences are noted in the composition which render Applicant's argument unconvincing:

- a. Regarding the amount of polyamide (PA) Composition a comprises 51.5 wt %, while Inventive Examples 1-4 comprise varying amounts of PA, specifically 46,5 wt % 50 wt % 47 wt % and 46.5 wt %.
- b. Composition A comprises 6 wt % F2, while inventive Examples 2-3 comprise 6.5 wt % and 5 wt % respectively.
- c. Composition A comprises 11.5 wt % F1 which compositions 2-3 comprises 12.5 wt % and 10 wt % of F2, respectively.
- d. Composition A comprises 0.5 wt % wt while inventive example 4 comprises 0 wt % ZB.

For the reasons stated above (a-d), the comparison of composition A to inventive Examples 1-4 is not a valid side-by-side comparison. It is noted that as set forth in MPEP 716.02(d), whether

Art Unit: 1796

unexpected results are the result of unexpectedly improved results or a property not taught by the prior art, “objective evidence of nonobviousness must be commensurate in scope with the claims which the evidence is offered to support”. In other words, the showing of unexpected results must be reviewed to see if the results occurred over the entire claimed range, *In re Clemens*, 622 F.2d 1029, 1036, 206 USPQ 289, 296 (CCPA 1980). Applicants have not provided data to show that the unexpected results do in fact occur over the entire claimed range of the following compounds:

- a. It is noted that while inventive examples 1-4 comprise at least 13 wt % of compounds F1 and F2, a currently recited in claim 1, claim 1 recites that the composition comprises from 1 to 30 wt % of F1, 1 to 20 wt % of F2, and 0.1 to 20 wt% of F3.

Inventive Examples 1-4 in Table 1 comprise 11.0 wt % to 12 wt % of F1, 5 wt % to 6.5 wt % of F2, and 1 wt % to 7 wt % of F3.

Claim 15 presently recites a flame retardant system comprising the compound (F1) which comprises the metal calcium, magnesium, aluminum or zinc. The compound (F2) is a reaction product between phosphoric acid and melamine and/or a reaction product between phosphoric acid and a melamine derivative, and the compound (F3) is a melamine condensation derivative. However, the inventive examples comprise specific compound F1-F3, i.e., the compound (F1) where the metal is aluminum, (F2) which is melamine polyphosphate and (F3) which melem. Therefore, the inventive examples are not commensurate with the scope of claim 15.

Art Unit: 1796

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER C. KOLLIAS whose telephone number is (571)-270-3869. The examiner can normally be reached on Monday-Friday, 8:00 AM -5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. C. K./

Examiner, Art Unit 1796

/Vasu Jagannathan/

Supervisory Patent Examiner, Art Unit 1796